

Farleigh House Submissions

Submission

This brief submission is aimed at assisting the Somerset licensing sub-committee, officers and local resident objectors, who are parties to the above matter, listed for determination on Monday. In essence it summarises the submissions that the applicant will make to the licensing committee and introduces the documents that will be before the committee, (sent across 2 June).

Attendees

The applicant will be in attendance on Monday, namely Paul Hutton from Farleigh House and Tarquin McDonald from Bath Rugby Club. Details about both are contained in the presenter materials contained within the agenda.

Application

This is an application made by Bath Rugby Club for a premises licence to permit licensable activities in Farleigh House and its grounds.

Bath Rugby Club

The organisation have considerable experience of delivering events and managing large volumes (much larger volumes than here) of attendees to and from a site, under strict regulatory control. The individuals associated with and involved in the activities here are themselves part of a wider organisation, with significant experience in managing customers and events (albeit of course of a different nature).

Reputation

We do invite the committee to consider that the reputational issues for Bath Rugby Club are an additional lockstep in ensuring that matters are attended to correctly and professionally. Candidly, it would be of significant harm and damage to the business and indeed “the brand” were the activities at this site not to be conducted professionally and with a minimum of intrusion.

Premises

The Farleigh House premises will be known to the committee, who we understand have now visited. It has been for a number of years a training centre for Bath Rugby Club with a variety of activities conducted on site. This application seeks to allow the premises to conduct some additional activities such as weddings, business conferences and events.

Area

The area is rural, and the committee will be aware that a number of nearby residential properties have objected to the application.

Licensable activities

A number of licensable activities are proposed within this application.

- Live music – The first element is to allow live music to commence from 11am until 1am Friday and Saturday, 11pm Sunday to Thursday

- Recorded music – Recorded music is proposed to be permitted for the same hours. Whilst technically both recorded music and live music are deregulated, before 11pm and to an audience of less than 500, it was felt open and transparent to apply in this manner.
- Sale of alcohol – Sale of alcohol is requested to mirror the entertainments listed above.
- Late-night refreshment – Late-night refreshment, that is to say the sale of hot food and hot drink is also requested for similar hours. i.e. Friday and Saturday only, as before 11pm no licensable permission is required,.

Operating schedule

In our submission, there is a significant operating schedule proposed which provides comprehensive protection, through conditions, contained within the application. It is we say a perfectly legitimate and proportionate operating schedule to address the activities that are being proposed. Indeed no officer has proposed to criticise the operating schedule candidly nor could they.

These conditions cover a number of points of particular note the following:

All members of staff shall receive training in relation to the sale of alcohol commensurate with their duties. 5. A copy of the training records shall be kept on site and made available for inspection by an authorised officer of the police and or the licensing authority. 6. All training shall be refreshed at least every 12 months.

CCTV shall be installed to Home Office Guidance standards and maintained in a good working condition and recordings shall be kept for 31 days and shall be made available to police and responsible authority officers from the local authority. 8. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested. 9. The CCTV system shall provide coverage of the entrance to the premises, and shall be capable of obtaining clear facial recognition images of every person entering the premises. 10. The CCTV images shall be kept in an easily downloadable format.

Whenever the premises conducts licensable activities beyond midnight on a Friday or Saturday, a risk assessment will be undertaken as to the employment of SIA door staff. A copy of this risk assessment will be made available to officers upon reasonable request.

An incident log shall be kept at the premises, and made available for inspection on request to an authorised officer of the local authority or the Police, which will record the following: (a) All crimes reported to the venue (b) All ejections of patrons (c) Any complaints received (d) Any incidents of disorder (e) All seizures of drugs or offensive weapons (f) Any faults in the CCTV system or searching equipment or scanning equipment (g) Any refusal of the sale of alcohol

All staff involved in the sale of alcohol shall be trained to record refusals of sales of alcohol in a refusals log (whether written or electronic). The log shall contain: i) Details of the time and date the refusal was made; ii) The identity of the staff member refusing the sale; iii) Any detail or description of the person refused and the reason why. iv) This book /register will be available for inspection by a Police Officer or authorised officer of Somerset Council upon request.

Where any external area is to be used exclusively by the premises and indicated on the plan as such, such area will be properly managed to ensure that as far as practicable customers behave in such a way as to promote the licensing objectives 15. Where any external area, as shown on the plan, forms part of a communal seating area, provision will be made for the proper management of customers to ensure that as far as practicable customers behave in such a way as to promote the licensing objectives.

A dispersal policy will be drawn up and implemented to ensure that as far as practicable customers leaving the premises at the end of each night's trading session do so quickly and quietly.

At all times that the premises is operating under this licence, the Premises Licence Holder shall ensure that its staff operate a Challenge 25 Policy (to minimise the risk of alcohol being sold to underage customers).

Pre-application consultation

Pre-application consultation was carried out with the licensing authority and responsible authorities prior to the submission of the application. A draft application, draft operating schedule and plan, as well as the presenter were all circulated in advance of formal submission.

Some of the representations suggest that there has been a lack of consultation and dialogue with local residents either in the lead up to or following submission of the application. This is not necessarily a point that is relevant to the licensing objectives, but for the avoidance of doubt it is not a point that we accept. A residents meeting was held before the license application was submitted and discussions, about the forthcoming application.

Further to the submission of the application there has been dialogue and discussion with a number of residents which has included two meetings.

Resident meeting

A number of residents visited the site on Tuesday 16 May, accompanied by your licensing officer Phil Wake. The application and the representations were discussed, and a tour of the grounds and house was undertaken. It is fair to flag that agreement was, self-evidently, not reached but as is often the case with these sort of meetings a much better understanding of each other's respective position is fairly described as a positive outcome.

Communications

The committee will also note that included within the papers are a number of communications with residents and neighbours including:

- the original email communication of February 25
- the email communication sharing the application and operating schedule as well as the PDF overview document,
- the email inviting local residents to Farleigh House for follow up discussions and communications with the parish council.

Materials

The Authority will be aware that additional materials were provided to the licensing authority on 2 June. These include some photographs of the site which disclose the following:

- The proximity of other properties to Farleigh House
- Photographs of the proposed marquee location
- Photographs of the grounds itself, the entrance into and from the road as well as the exit
- A final photograph appendix 4 looks up the Tellisford Road from the entrance where traffic will be directed on exit on an event evening

Overview document/presenter

The Authority will also note that a presenter introducing the premises, their ambitions, control measures, detail about the individuals, example menus, a number of photographs and detail about the grounds is also included.

Responsible authorities

There are no representations from any of the responsible authorities. The licensing committee will be familiar with paragraph 9.2 of the national guidance issued under section 182 of the Licensing Act. To quote that guidance it says "*Each responsible authority will be an expert in their respective field, and in some cases, it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police usually will therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder objective. However, any responsible authority under the 2003 act may make representations with regard to any of the licensing objectives if they have evidence to support such representations.*" The lack of a representation is of some significance. The committee will be aware that officers are not shy to engage in licensing applications and we would suggest that their electing not to serve a representation here is a positive observation.

Some of the representations invite the conclusion that anti-social behaviour will result if this application is granted. We respectfully submit that it is inconceivable that the police, as an example, would have seen fit not to serve a representation were they to have concluded likewise.

Planning

A number of the representations attend to issues of planning permission. The licensing committee will be familiar with the Mendip licensing policy and the National Guidance and the need to avoid duplication of regulatory regimes, within a premises licence. We have referenced below all those elements of the licensing policy which we say has bearing on this application. We will not set out all of the points here, they are below, but we believe that planning permission is correctly in place for this premises and this application.

It is of note that the planning office do not make a representation.

Concerns

It would appear that there are four areas of licensing related concern. These are:

- Traffic that will be going through the village due to the events.
 - The noise from these events.
 - Light pollution (from the marquee activities).
 - Behaviour of guests at events (presumably when they will have consumed alcohol) and the concern that the applicant will not be able to manage these guests.
- **Traffic that will be going through the village due to the events.**

Road Network

Concern has been articulated about vehicles and the road network. We do not accept that these points can be fairly attributed to the licensing objectives. The road network here is part of the national road network and whilst, of course, those driving vehicles need to be respectful and comply with speed limits and the like there is nothing, we say, about the road network here that in some way precludes the grant of a licence application. *Anxieties are raised in the representations about an increased likelihood of antisocial behaviour, suggested in part through poor or indeed drink driving. This, appears unnecessarily negative.*

It is also suggested, again in some of the representations, that a number of vehicles attending the premises will in and of themselves create public nuisance. We entirely refute that suggestion. The numbers in attendance and the number of events in any one year simply don't allow for that conclusion.

Traffic Management

A traffic management plan is proposed within the papers, and contained within your agenda which sets out perfectly legitimate, practical and sensible measures with a view to minimising the impact that the operations proposed will have on the local community.

- **The noise from these events.**

Noise and nuisance

Our clients are fully committed to ensuring that this premises does not unreasonably intrude into neighbouring premises, whether through noise or activities. We say that the conditions, and the additional policies that have been provided, attend to matters correctly and proportionately. Some of the representations are couched in terms of

seeking to protect peace and tranquillity. The licensing objective is, of course, public nuisance. Protection of peace and tranquillity raises the bar, inappropriately, in the context of what might fairly be considered to be egregious or something that might legitimately undermine or defeat this application.

Noise management plan

Following dialogue and discussion with the environmental health officer in the course of the application process we have produced a noise management plan to attend to noise concerns. This document meets with his approval. The committee will see that this attends to music within Farleigh House and, perhaps of particular note when activities are conducted within the proposed marquee.

There are a number of actions and proposals contained within this document but of particular note are; the location of the marquee, the focus of any music system, the assessments at the boundary of the premises, checks through the course of entertainment as well as restrictions on deliveries, location of smoking areas, telephone numbers for the premises, complaint actions, if received.

Traffic management plan

A traffic management plan has also been included within the papers. This touches on a number of issues including; signage, taxi companies, What3Word location sharing, information provided to clients, dedicated parking areas, event signage, a one way system and members of the event teams being positioned appropriately

- **Light pollution (from the marquee activities).**

The location of the marquee is clearly critical here. We do not accept that absent fireworks, lasers or anything of that nature (which are not proposed) that lighting a marquee, safely, and appropriately for guests, can fairly be said to be a public nuisance. The use of a 'marquee' has by nature a 'limited window' to only 4 or 5 months of the year.

- **Behaviour of guests at events (presumably when they will have consumed alcohol) and the concern that the applicant will not be able to manage these guests.**

We are at a loss to understand that this is a likely outcome from hosting events at this location. The grounds are significant, staff will be deployed throughout the grounds, all guests will be attending as invitees of the event organiser, all of which leads to the fair conclusion that this hypothetical concern can be correctly managed and addressed by these experienced applicants. Staff will at all times be monitoring the guests, and there will be a prohibition on and close monitoring of guests, leaving the estate with either glasses or bottles, when the event is finished, or at all

Mr Wake has provided a representations summary document setting out the legitimate issues raised. We believe that the summary above is a fair representation of the points raised. We believe that the above are fairly represented by the above.

Fireworks

We recognise that some of the representations refer to the use of fireworks and some to drone and/or helicopter usage. I do not know that there is a great deal that I

can offer the committee about drone and/or helicopter usage, this is not something either within the application or envisaged. In the context of fireworks, whilst not a licensable activity, my clients are happy to confirm that no such activities are proposed.

Risk

Licensing is about proportionality we are not able to eradicate every last possible risk. Candidly, if we were to do that then we would close all licensed premises.

Each application on its individual merits

We do not accept, as some of the representations may suggest, that the mere existence of the activities will undermine the licencing objectives. That, respectfully, could be a conclusion one would draw from the representations. The committee will we suggest want to consider the applicant, the nature, type and style of the operation, it's frequency and extent, the standards that the applicant will bring, the conditions that they propose, all of which we say is critical.

Documents

This submission makes reference to certain documents which either form part of the committee report or supplementary papers which have been provided to the licensing authority and all of the representors. We have endeavoured to provide page numbers throughout.

Proposed additional conditions

All of that said we are respectful of the concerns that have been raised by residents. The dialogue and discussion that the applicants have engaged in with the representors bares testament to that. However, we are mindful to proceed on a basis that is not inflammatory.

To that end we would suggest to further moderate and restrict the application as follows:

- In 2023 no more than 15 events at Farleigh House and the grounds
- In 2024 no more than 50 events at Farleigh House or grounds.
- No events on Monday or Tuesdays.
- No events on Boxing Day or Christmas Day.
- All licensable activities to be restricted to 0030 (half past midnight) and all guests to be off site by 1am on Fridays and Saturdays. The original application suggested licensable activities to cease at 1am with all guests off site by 1.30am. Sunday to Thursday is already limited to 11pm/11.30.
- Noise management plan, (also contained within the agenda papers), to be operated at all times that licensable activities are conducted.
- All recycling and refuse to be carried out between the hours of 9am and 6pm.
- No fireworks (as detailed above)
- Event deliveries will only take place between the hours of 9am and 6pm.
- Traffic management plan to be operative at all times that licensable activities are conducted.
- All attendees to be advised of appropriate routes to minimise disturbance.
- Litter and patrol morning following licensable activities.

- The applicant to invite neighbours to a meeting to discuss both activities that have been conducted and forthcoming proposals, no less than twice a year.

Licensing policy

The Mendip licensing policy, which we understand is the existing policy under which the licensing committee will come to determine this application is an extensive document with which the committee will be familiar. We set out here below those paragraphs, in appropriate detail, that appear to us to be particularly material considerations when determining the application.

Page 6 These variations and contrasts across the district mean that the licence premises within the area vary considerably between the towns and villages. Because of the rural nature of the district, premises and events licence under the Licensing Act provide an essential contribution to the local economy of the district, tourism and cultural development.

Page 8 These four objectives will be the paramount considerations when determining a course of action in relation to the licensing authorities licensing functions.

Each objective will be given equal importance (1.2.3).

As the vicinity test has now been removed, the licensing authority will consider all representations from any person however the licensing authority shall apportion the weight of the representation between those persons immediately effected by the premises in its operation and those persons who may have a lack of knowledge of the area or personal experience. (1.3.1)

Page 10 The licensing authority expects every licence holder or event organiser to minimise the impact of their activities on the surrounding area and any antisocial behaviour created by the customers in and within the vicinity of their premises by taking appropriate measures and actions consistent with that responsibility. In addressing this matter the licensing authority will primarily focus on the direct impact of the 2003 activities taking place at the licensed premises on members of the public living, working or engage in normal activity in the area concerned.

Page 13 Applications for premises licences with a terminal hour later than 12.00 midnight with a sale or supply of alcohol for consumption on the premises is the main activity or whether sale or supply of alcohol is accompanied by musical entertainment, will be subject to close scrutiny by the responsible authorities to ensure there will be no adverse impact on the licensing objectives. Specifically the application should ensure that the operating schedule for such premises demonstrates that the licensing objectives will be met. (2.5.2)

In considering these issues the licensing authority will give careful consideration to the nature of the venue proposed. For example the council is keen to promote establishment to which the service and consumption of alcohol is not the primary activity. These may include restaurants, theatres, cinemas, comedy clubs, galleries, museums and similar venues. The licensing authority's experience is that such

venues are liable to give rise to fewer public concerns in relation to later closing hours. (2.5.3)

The licensing authority will pay special regard to the proximity of residential properties to the proposed premises. Consideration will be given to the imposition of stricter noise control conditions (if representations are received in areas with a concentration of residential properties). (2.5.4)

Page 14 The licensing authority will expect premises to be cleared of patrons within a reasonable time if the terminal hour is set for licensable activities. (2.5.5)

Page 15 The licensing authority recognises the need to avoid, so far as possible, duplication with other regulatory regimes such as health and safety at work, fire safety, building control and planning. Conditions will not be imposed if the matters concerned are already provided for sufficiently in other legislation. (3.5.1)

The licensing authority recognises that the existence of planning permission, building regulation approval or outside table licences must be properly separated from licensing applications to avoid duplication and inefficiency. Similarly the existence of a premises licence shall not prejudice the consideration of any planning, building regulation approval or outside table applications. However the licensing authority shall expect applicants to have obtained the appropriate consents or licences prior to operation. (3.5.5)

Where premises have not obtained such consents or licences they will be liable to enforcement action under the appropriate legislation. There may be circumstances when as a condition of planning permission a terminal hour set for the use of commercial premises. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time to ensure they are not in breach. Premises operating in breach of their planning permission or other premises licence/certificate may be liable to enforcement action by the planning authority or the licensing authority as appropriate.

Page 22 The council recognises the need to encourage and promote a broad range of entertainment, particularly live music dancing and theatre for the wider cultural benefit of the community and in particular for children and young children. (3.10.1) When considering applications for such events and the imposition of any conditions if representations are received on licences or certificates, the licensing authority will carefully balance the need to promote the licensing objectives against these wider cultural benefits. (3.10.2)

Page 23 It is recommended that applicants liaise with neighbours and/or relevant community groups such as local residents associations or other such groups as may be appropriate prior to submitting an application. (4.1.2) The licensing authority especially recommends that applications liaise with relevant authorities prior to submitting their applications (eg police or fire authority) when compiling their operating schedules and the local pub watch if one operates in the area. (4.1.3)

Page 32 – it is highly recommended that event organisers consider the following points:

1. Banning single use plastic
2. Encourage non-fossil fuel powered events
3. Alcohol sourced from local brewers/suppliers
4. High recycling rates (4.7.2)

Speculation

The licensing sub-committee can only really make findings based on the admissible materials submitted to it. What the authority cannot be asked to do is speculate, as the High Court made clear in *R (Daniel Thwaites) v Wirral Borough Magistrates (2008) EWHC 838 (Admin)*. It can however, of course, draw fair inferences from the material that it does have.

Determination

There is, we submit, only really one question of significance here. Will this application, will these activities, conducted by this applicant, at these premises, be likely to undermine the licensing objectives?